

CONSTRUCTION
LABOR STANDARDS

1. Labor Standards Provisions.

The labor standards provisions are based on the following statutes and regulations:

Davis Bacon Act
Contract Work Hours and Safety Standards Act
Copeland ("Anti-Kickback") Act
Parts 3 and 5 of the Secretary of Labor Regulations
(Parts 3 & 5, Subtitle A, Title 29, Code of Federal Regulations)
*Executive Order 11246 (Equal Employment Opportunity)
*Not applicable to contract awards less than \$10,000.

2. Applicability.

a. Contract. These provisions are applicable to contracts which are solely or predominantly for construction (including alteration and repair of buildings, structures, or other real property). These provisions are also applicable to certain non-construction contracts involving some construction work. Labor standards provisions are also applicable to manufacture or fabrication of construction materials on the site of work.

b. Employees. The requirements of the labor standards provisions apply only to work performed by mechanics and laborers at the site of work. "Mechanics and laborers" means those workers and working foremen who work predominantly with their hands or with tools and equipment whether employed by a prime contractor or by a subcontractor of any tier. This does not include office workers, superintendents, technical engineers, or scientific workers.

c. Site of Work.

(1) The "site of the work" is limited to the physical place or places where the construction called for in the contract will remain when work on it has been completed, and to other adjacent or nearby property used by the contractor or subcontractor in such construction, which can reasonably be said to be included in the "site" because of proximity. Fabrication plants, "mobile factories", batch plants, borrow pits, job headquarters, tool yards, etc., are part of the "site of the work" provided, they are dedicated exclusively or nearly so to performance on the contract and are so located in proximity to the actual construction location that it would be reasonable to include them. The wage rate decision is applicable only to those mechanics and laborers employed by a contractor or subcontractor within such limits (that is, upon the "site of the work", including drivers who temporarily leave the "site" to transport materials and equipment used in the course of contract operations.

(2) Not included in the "site of the work" are permanent home office or branch plant establishments of a contractor or subcontractor, his fabrication plant and tool yard establishments whose locations and continuance are governed by his general business operations. This is so even though mechanics and laborers working at such an establishment may repair or maintain machinery used in contract performance or make doors, windows, frames, or forms. Regardless of the activities performed at such establishments, the Secretary's wage rate determination does not apply because they do not constitute the "site of the work". However, if such mechanics or laborers are required to go to a place which is the "site of the work" to perform activities on the contract there, the Secretary's wage decision is applicable for the actual time so spent, not including travel.

d. Suppliers. Contracts with bona fide material suppliers or with manufacturers to produce, supply, or deliver items to the "site of the work" for use in the construction activities are not subject to Davis-Bacon and related acts, nor is transportation by common carrier over regular routes. However, if such a materialman, manufacturer, or carrier undertakes to perform a contract, or some part of a contract as a subcontractor, his mechanics and laborers employed at the "site of the work" are subject to the Secretary's wage rate decision in the same manner as those employed by any other contractor or subcontractor.

3. Subcontractors.

SF Form 1413, Statement and Acknowledgement of Subcontractor, shall be furnished this office in duplicate within seven (7) days after award of any subcontract, either by your firm or a subcontractor. These labor standards apply to all subcontracts awarded under your contract and shall be sent to each subcontractor.

4. Davis-Bacon Act.

a. Basic Hourly Rate and Fringe Benefits. Provides that certain contracts over \$2,000 entered into for the construction, alterations, or repair (including painting and decorating) of public buildings or public works within the United States shall contain a provision to the effect that no laborer or mechanic employed directly upon the site of the work contemplated by the contract shall receive less than the prevailing wage, including basic hourly rates and fringe benefit payments, shown in wage determination of the contract.

b. Additional Classification. Whenever any laborer or mechanic is to be employed in a classification not listed in the wage determination decision applicable to the contract, the contractor concerned must submit a statement of the proposed additional classification and minimum wage rate, including fringe benefits payments, if any. A DD Form 1565, "Request for Authorization of Additional Classification and Rate", shall be used for such proposal and will be furnished by this office upon request. The contractor shall submit his proposal prior to using any workers in additional classifications in the performance of the contract. Upon approval, the additional classification and rate shall be posted with the wage determination.

5. Apprentices.

Apprentices are permitted to work as such, provided, they are registered individually under a bona fide apprenticeship program. The allowable ratio of apprentices to journeymen in any craft classification shall not be greater than the ratio permitted you for your entire work force under the registered program. Any employee listed on a payroll at any apprentice wage rate, who is not registered shall be paid the wage rate determined for the classification of work he actually performed. You are required to furnish written evidence of the registration of your program and apprentices as well as the ratios allowed and the wage rates required to be paid thereunder for the area of construction prior to using any apprentices in the contract work.

6. Contract Work Hours and Safety Standards Act.

Wages of every laborer and mechanic employed in performance of the work shall be computed on the basis of a standard workday of eight hours and a standard workweek of forty hours. Work in excess of such standard workday or workweek shall be permitted, provided, wages include compensation, at a rate not less than one and one-half times the basic rate of pay, for all hours worked in excess of the standard workday or workweek. In the event of a violation of the Act, you and your subcontractor responsible therefore, shall be liable to any affected employee for his unpaid wages and shall, in addition, be liable to the United States for liquidated damages.

7. Posting Requirement.

Poster WHPC Publication 1321 is attached hereto for necessary action. This Poster and the Wage Decision from your contract shall be posted in a conspicuous place available to employees at the job site.

8. Payrolls and Basic Records.

a. Maintenance and Preservation. The original time books of foremen, superintendents, or timekeepers used at the site of the work are a vital part of the payroll records referred to in these Labor Standards Provisions of your contract, and therefore, must be preserved for a period of three (3) years after completion date. Copies of Contractor's and Subcontractor's payrolls will be submitted by you to the Contracting Officer, numbered consecutively, one (1) copy only, within seven (7) days after the regular payment date of each weekly payroll. Each payroll shall have a Statement of Compliance, DD Form 879, attached. For weeks when no work is performed, a statement or letter shall be furnished for that particular week indicating no work performed.

In lieu of using DD Form 879, your own combined payroll statement form may be used, provided, the statement is reproduced in exactly the language of the DD Form 879 and the signer certifies on the statement: "The language of this statement is exactly the language of DD Form 879."

b. Withholding for Non-Submission. If the contractor fails to submit his, or his subcontractor's payrolls promptly, the Contracting Officer shall withhold approval of such amount of the progress payment estimated as he considers necessary to protect the interests of the Government, or of the employees of the contractor or any subcontractor.

c. Examination. The Contracting Officer shall make such examination of the payrolls and statements as may be necessary to assure compliance with contract, statutory, and regulatory requirements. Particular attention should be given to the correctness of classifications and rates, fringe benefits payments, hours worked, deductions, and ratios of laborers, helpers, or apprentices to mechanics. With respect to fringe benefit payments, contributions made or costs incurred on other than a weekly basis shall be considered as a part of required weekly payments to the extent they are creditable to the particular weekly period involved and are otherwise acceptable.

9. Copeland ("Anti-Kickback") Act.

You are required to comply with Copeland (Anti-Kickback) Regulation. Under the regulation, it is unlawful to induce any employee in the construction or repair of any public building or works, to give up any compensation he is entitled to under your contract. Copies of this regulation may be obtained from the Secretary of Labor, U.S. Department of Labor, Washington, DC.

10. Withholding of Funds.

Should labor violations occur, funds may be withheld from the accrued payments due as may be considered necessary to pay laborers and mechanics the full amount of wages required by the contract, and to satisfy any liability assessed to you for liquidated damages under the Contract Work Hours and Safety Standards Act - Overtime Compensation. If you fail to pay any laborer or mechanic employed or working on the job site all or part of the wages required by the contract, the Contracting Officer may, after written notice to you, take such action as may be necessary to cause suspension of any further payments until such violations have ceased and restitution made to the employee(s) as appropriate. The need for maintaining complete and accurate work records cannot be overemphasized. The Contracting Officer is charged with the responsibility of ascertaining that you have complied with the labor standards provision of your contract. Adequate work records and on job compliance checks will usually preclude the need for time consuming investigations, withholding of funds, and delays to the mutual advantage of you and the Government.

11. Contract Termination - Debarment.

A breach of the clauses hereof entitled "Davis-Bacon Act", "Contract Work Hours and Safety Standards Act - Overtime Compensation", "Apprentices and Trainees", "Payrolls and Basic Records", "Compliance with Copeland Regulations", "Withholding", and "Subcontracts" may be grounds for termination of the contract, and for debarment as provided in 29 CFR 5.6.

12. Disputes Concerning Labor Standards.

Disputes concerning construction contract labor standards enforcement including misclassification of workers, hours of work, wage rates, and payments, withholding practices, and the application of labor standards provisions are generally settled administratively at the project level without reference to the Disputes clause of the contract. Disputes arising out of the labor standards provisions which cannot be settled administratively at the project level shall be subject to the Disputes clause, except for disputes involving the meaning of classification, wage rates contained in the wage determination decisions of the Secretary of Labor, or the applicability of contract labor provisions. Pursuant to the clause entitled "Disputes Concerning Labor Standards", these shall be referred to the Secretary of Labor

for an opinion with sufficient supporting data to explain both sides of the dispute. This action should be taken under the appropriate section of Subtitle A, Title 29, Code of Federal Regulations, before a Contracting Officer's decision, which might be affected by such an opinion of the Secretary of Labor, is made pursuant to the Disputes clause. The opinion obtained shall be made a part of the contract file and shall be applied (i) in the investigation of the case, (ii) in the computation of wage underpayments, and (iii) by the Contracting Officer in reaching his decision pursuant to the Disputes clause. In the event the contractor initiates an appeal before the opinion of the Secretary of Labor is received, the opinion should be obtained promptly and made a part of the appeal file.

13. Labor Standards Provisions Applicable to Construction.

Your attention is also invited to U.S. Department of Labor Regulations, Parts 3 and 5, Title 29, Subtitle A, Code of Federal Regulations, entitled "Standards, Regulations, and Procedures with Respect to Administration and Enforcement by Federal Agencies of Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction". Copies of this regulation may be obtained from the Secretary of Labor, U.S. Department of Labor, Washington, DC 20210.

14. Equal Employment Opportunity.

*Not Applicable to Contract Awards less than \$10,000

In accordance with Executive Order No. 11246, your contract contains a provision in which you agree not to discriminate against any employees or applicants for employment because of race, color, religion, sex, or national origin. Further, you have agreed to insert these provisions in appropriate subcontracts.

Your contract also requires you to display in conspicuous places, available to employees and applicants for employment, a Notice setting forth the provisions of the Equal Opportunity clause.

A copy of the Notice which you have agreed to display is attached. If you have any questions concerning your obligations under the Equal Opportunity clause or display of the Notice, call or write this office.

15. Nonsegregated Facilities.

*Not applicable to contract awards less than \$10,000.

You have agreed that facilities for employees are not maintained or provided which are segregated on a basis of race, creed, color, or national origin and that subcontractor certifications have been submitted, in accordance with Secretary of Labor's order on "Elimination of Segregated Facilities, prior to award of any subcontract exceeding \$10,000. This clause is contained in Section entitled "Representations and Certifications" of the contract.

4 Enclosures

1. SF Form 1413
2. WHPC Publication 1321
3. DD Form 879
4. Equal Opportunity Notice

STATEMENT AND ACKNOWLEDGMENTOMB No.: **9000-0014**
Expires: 03/31/92

Public reporting burden for this collection of information is estimated to average 1.5 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the FAR Secretariat (VRS), Office of Federal Acquisition and Regulatory Policy, GSA, Washington, DC 20405; and to the Office of Management and Budget, Paperwork Reduction Project (9000-0014), Washington, DC 20503.

PART I - STATEMENT OF PRIME CONTRACTOR

1. PRIME CONTRACT NO.	2. DATE SUBCONTRACT AWARDED	3. SUBCONTRACT NUMBER
4. PRIME CONTRACTOR (Name, address and ZIP code)		5. SUBCONTRACTOR (Name, address and ZIP code)
6. The prime contractor states that under the contract shown in Item 1, a subcontract was awarded on the date shown in Item 2 by (Name of Awarding Firm) _____		

to the subcontractor identified in Item 5, for the following work:

7. PROJECT	8. LOCATION	
9. NAME AND TITLE OF PERSON SIGNING	10. BY (Signature)	11. DATE SIGNED

PART II - ACKNOWLEDGMENT OF SUBCONTRACTOR

12. The subcontractor acknowledges that the following clauses of the contract shown in Item 1 are included in this subcontract:

Contract Work Hours and Safety	Davis-Bacon Act
Standards Act - Overtime	Apprentices and Trainees
Compensation - Construction	Compliance with Copeland Regulations
Payrolls and Basic Records	Subcontracts
Withholding of Funds	Contract Termination-Debarment
Disputes Concerning Labor Standards	Certification of Eligibility

13. NAME(S) OF ANY INTERMEDIATE SUBCONTRACTORS, IF ANY		
14. NAME AND TITLE OF PERSON SIGNING	15. BY (Signature)	16. DATE SIGNED

NOTICE TO ALL EMPLOYEES



Working on Federal or Federally Financed Construction Projects

MINIMUM WAGES

You must be paid not less than the wage rate in the schedule posted with this Notice for the kind of work you perform.

OVERTIME

You must be paid not less than one and one-half times your basic rate of pay for all hours worked over 40 a week. There are some exceptions.

APPRENTICES

PROPER PAY

Apprentice rates apply only to apprentices properly registered under approved Federal or State apprenticeship programs.

If you do not receive proper pay, contact the Contracting Officer listed below:



or you may contact the nearest office of the Wage and Hour Division, U.S. Department of Labor. The Wage and Hour Division has offices in several hundred communities throughout the country. They are listed in the U.S. Government section of most telephone directories under:

U.S. Department of Labor
Employment Standards Administration



STATEMENT OF COMPLIANCE

Form Approved
OMB No. 1215-0149
Expires June 30, 2000

The public reporting burden for this collection of information is estimated to average 16 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to Department of Defense, Washington Headquarters Services, Directorate for Information Operations and Reports (1215 - 0149), 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302. Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to any penalty for failing to comply with a collection of information if it does not display a currently valid OMB control number.

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE ABOVE ADDRESS. RETURN THE COMPLETED FORM TO THE CONTRACTING OFFICER.

1. PAYROLL NUMBER	2. PAYROLL PAYMENT DATE (YYYYMMDD)	3. CONTRACT NUMBER	4. DATE (YYYYMMDD)
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I, _____, _____ do hereby state
(Name of signatory party) (Title)

(1) That I pay or supervise the payment of the persons employed by _____
(Contractor or subcontractor)

on the _____; that during the payroll period commencing on the _____ day of _____
(Building or work)

_____, _____, and ending the _____ day of _____, _____, all persons employed

on said project have been paid the full weekly wages earned, that no rebates have been or will be made either directly or indirectly to or on

behalf of said _____ from the full weekly wages earned by any person
(Contractor or subcontractor)

and that no deductions have been made either directly or indirectly from the full wages earned by any person, other than permissible

deductions as defined in Regulations, Part 3 (29 CFR Subtitle A), issued by the Secretary of Labor under the Copeland Act, as amended

(48 Stat. 948, 63 Stat. 108, 72 Stat. 967; 76 Stat. 357; 40 U.S.C. 276c), and described below:

(2) That any payrolls otherwise under this contract required to be submitted for the above period are correct and complete; that the wage rates for laborers or mechanics contained therein are not less than the applicable wage rates contained in any wage determination incorporated into the contract; that the classifications set forth therein for each laborer or mechanic conform with the work performed.

(3) That any apprentices employed in the above period are duly registered in a bona fide apprenticeship program registered with a State apprenticeship agency recognized by the Bureau of Apprenticeship and Training, United States Department of Labor, or if no such recognized agency exists in a State, are registered with the Bureau of Apprenticeship and Training, United States Department of Labor.

(4) That:

(a) **WHERE FRINGE BENEFITS ARE PAID TO APPROVED PLANS, FUNDS, OR PROGRAMS**

☐ - In addition to the basic hourly wage rates paid to each laborer or mechanic listed in the above referenced payroll, payments of fringe benefits as listed in the contract have been or will be made to appropriate programs for the benefit of such employees, except as noted in Section 4(c) below.

(b) **WHERE FRINGE BENEFITS ARE PAID IN CASH**

☐ - Each laborer or mechanic listed in the above referenced payroll has been paid as indicated on the payroll, an amount not less than the sum of the applicable basic hourly wage rate plus the amount of the required fringe benefits as listed in the contract, except as noted in Section 4(c) below.

(c) **EXCEPTIONS**

EXCEPTION (Craft)	EXPLANATION

5. REMARKS

6. NAME (Last, First, Middle Initial)

7. TITLE

8. SIGNATURE

The willful falsification of any of the above statements may subject the contractor or subcontractor to civil or criminal prosecution. See Section 1001 of Title 18 and Section 3729 of Title 31 of the United States Code.

Equal Employment Opportunity is

THE LAW

Employers Holding Federal Contracts or Subcontracts

Applicants to and employees of companies with a Federal government contract or subcontract are protected under the following Federal authorities:

RACE, COLOR, RELIGION, SEX, NATIONAL ORIGIN

Executive Order 11246, as amended, prohibits job discrimination on the basis of race, color, religion, sex or national origin, and requires affirmative action to ensure equality of opportunity in all aspects of employment.

INDIVIDUALS WITH DISABILITIES

Section 503 of the Rehabilitation Act of 1973, as amended, prohibits job discrimination because of disability and requires affirmative action to employ and advance in employment qualified individuals

Private Employment, State and Local Government, Educational Institutions

Applicants to and employees of most private employers, state and local governments, educational institutions, employment agencies and labor organizations are protected under the following Federal laws:

RACE, COLOR, RELIGION, SEX, NATIONAL ORIGIN

Title VII of the Civil Rights Act of 1964, as amended, prohibits discrimination in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other aspects of employment, on the basis of race, color, religion, sex or national origin.

DISABILITY

The Americans with Disabilities Act of 1990, as amended, protects qualified applications and employees with disabilities from discrimination in hiring, promotion, discharge, pay, job training, fringe benefits, classification, referral, and other aspects of employment on the basis of disability. The law also requires that covered entities provide qualified applicants and employees with disabilities

Programs or Activities Receiving Federal Financial Assistance

RACE, COLOR, NATIONAL ORIGIN, SEX

In addition to the protection of Title VII of the Civil Rights Act of 1964, Title VI of the Civil Rights Act prohibits discrimination on the basis of race, color or national origin in programs or activities receiving Federal financial assistance. Employment discrimination is covered by Title VI if the primary objective of the financial assistance is provision of employment, or where employment discrimination causes; or may cause discrimination in providing services under such programs. Title IX of the Education Amendments of 1972 prohibits employment discrimination on the basis of sex in educational programs or activities which receive Federal assistance.

with disabilities who, with reasonable accommodation, can perform the essential functions of a job.

VIETNAM ERA AND SPECIAL DISABLED VETERANS

38 U.S.C. 4212 of the Vietnam Era Veterans Readjustment Assistance Act of 1974 prohibits job discrimination and requires affirmative action to employ and advance in employment qualified Vietnam era veterans and qualified special disabled veterans.

Any person who believes a contractor has violated its nondiscrimination or affirmative action obligations under the authorities above should contact immediately:

The Office of Federal Contract Compliance Programs (OFCCP), Employment Standards Administration, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210 or call (202) 219-9430, or an OFCCP regional or district office, listed in most telephone directories under U.S. Government, Department of Labor.

with reasonable accommodations that do not impose undue hardship.

AGE

The Age Discrimination in Employment Act of 1967, as amended, protects applicants and employees 40 years of age or older from discrimination on the basis of age in hiring, promotion, discharge, compensation, terms, conditions or privileges of employment.

SEX (WAGES)

In addition to sex discrimination prohibited by Title VII of the Civil Rights Act (see above), the Equal Pay Act of 1963, as amended, prohibits sex discrimination in payment of wages to women and men performing substantially equal work in the same establishment.

Retaliation against a person who files a charge of discrimination, participates in an investigation, or opposes an unlawful employment practice is prohibited by all these Federal laws.

If you believe that you have been discriminated against under any laws, you immediately should contact:

The U.S. Equal Employment Opportunity Commission (EEOC), 1801 L. Street, N.W., Washington, D.C. 20507 or an EEOC field office by calling toll free (800) 669-4000. For individuals with hearing impairments, EEOC's toll free TDD number is (800) 800-3302.

INDIVIDUALS WITH DISABILITIES

Section 504 of the Rehabilitation Act of 1973, as amended, prohibits employment discrimination on the basis of disabilities in any program or activity which receives Federal financial assistance. Discrimination is prohibited in all aspects of employment against disabled persons who, with reasonable accommodation, can perform the essential functions of a job.

If you believe you have been discriminated against in a program of any institution which receives Federal assistance, you should contact immediately the Federal agency providing such assistance.